

REMARKS

Claims 1-10, 16, 19-21, 26-28, and 30-36 have been examined. All of the claims have been rejected as unpatentable over the prior art of record. Specifically, claims 30, 31, and 32 are rejected as anticipated by U.S. Patent No. 6,249,801 to Zisapel et al. (herein "Zisapel"), and claims 1, 6, 19-21, and 33-36 are rejected as obvious over Zisapel in view of U.S. Patent No. 6,389,448 to Primak et al. (herein "Primak"). Claims 2, 3, 7, and 8 are rejected as being obvious over Zisapel in view of Primak, and further in view of U.S. Patent No. 5,535,322 to Hecht (herein "Hecht").

Applicant's representative, Grace Law, conducted an interview with the Examiner on March 9, 2004. Applicant appreciates the Examiner's helpful comments during the interview. The parties primarily discussed the application of Primak and Zisapel to claim 26 and agreed that an amendment to the remaining independent claims to include the features of the error message and the non-delegable client recited in claim 26 would likely overcome the cited references (Interview Summary, Paper No. 17). However, the Examiner indicated that the proposed amendments require further consideration of the cited references and an updated search. Accordingly, this response is submitted pursuant to the interview with the Examiner.

To expedite the prosecution and in light of the interview, Applicant cancels claims 32 and 33 and amends independent claims 1, 6, 16, 19, 26, 30, 31, and 34 to further define the client as a non-delegable client that does not understand a delegation of the request to another server. Moreover, Applicant respectfully traverses that the cited references do not, alone or combined, disclose or suggest the non-delegable client and the error message as recited in the amended independent claims.

In particular, the Office first asserts that Zisapel discloses a non-delegable client on column 6, lines 40-59. However, column 6, lines 40-59 teaches nothing more than a way to grant a service request from a client based on normal load balancing considerations. Specifically, Zisapel discloses a network proximity load balancing system (Zisapel, Col. 6, lines 30-32). In Zisapel, the system finds a "best" site among multiple server farm sites to serve a request from a client (Zisapel, Col. 6, lines 38-39).

The load balancing considerations are based on a proximity table, which relates to the Internet Protocol address of the requesting client (Zisapel, Col. 6, lines 40-44). However, the present recited claims do not disclose a load balancing delegation system as disclosed in Zisapel. Rather, the recited claims disclose, among other things, a way to enable a non-delegable client that does not understand a delegation of the request to another server to send the request to a next server. In fact, there is nothing in Zisapel that relates to a non-delegable client as recited in the claims. Moreover, because the client's request can be delegated to another server, it is implicit that the client is a delegable client, and not a non-delegable client that does not understand a delegation of the request to another server as recited in the claims. As a result, there is no disclosure in Zisapel that relates to a delegation computer system that is able to function with non-delegable clients.

Second, the Office asserts that Primak discloses the sending of an error message to the client that causes the client to forward the request to another server on Column 3, lines 29-48. However, contrary to the Office's assertion, column 3, lines 29-48 of Primak teach the sending of availability information to other servers in the system, and mention nothing about the availability information being sent to the client. Moreover, in Primak, although the client sends a request only to a server in the server cluster (Primak, Col. 3, lines 42-44), the request is accepted by one server, which is not necessarily the server that originally received the client's request, based on load balancing considerations (Primak, Col. 4, lines 47-51). Again, according to Primak, the client's request can be delegated to another server, which indicates that the client is a delegable client, and not a non-delegable client that does not understand a delegation of the request to another server as recited in the claims.

Even if, *arguendo*, Primak discloses the sending of availability information to the client as asserted by the Office, the cited references nevertheless fail to disclose the error message as recited in the claims. In fact, the Office has plainly admitted that the cited references do not disclose the recited error message. However, according to the MPEP rules, the cited references, alone or combined, must teach or suggest all the claim limitations. Specifically, an error message identifying that the server as being off-line is simply not disclosed in any of the cited references.

Moreover, contrary to the Office's assertion, it would not be obvious to provide a message that indicates a server being unavailable, because the motivation is not based on any teachings from the cited references. In other words, none of the cited references discloses or suggests the Office's asserted motivation for providing a message that indicates a server being unavailable "because it would aid the client in finding a server that could handle its requests if it cannot be forward to another server by the server it is currently requesting a resource from" (Paper Number 15, page 7). Furthermore, none of the cited references addresses the problem of working with a non-delegable client. However, it is well established that a Section 103 rejection requires that the prior art references not only teach or suggest all the claim limitations, but that there must also be some suggestion or motivation from the cited references to modify or combine the references (MPEP 2142). In this case, no suggestion or motivation can be drawn from any of the cited references to make the asserted combination, because the Office failed to show that the asserted suggestion or motivation was based on any teachings of the cited references.

Furthermore, to the extent that the dependent claims 2-5, 7-10, 20, 21, 27, 28, 35, and 36 depend from independent claims 1, 6, 19, 26, and 34, these dependent claims are patentable for at least the reasons set forth above with regard to their corresponding independent claims. Nevertheless, Applicant reserves the right to present further arguments in the future with regard to the dependent claims in the event that the independent claims are found to be unpatentable. Accordingly, for all these reasons, Applicant requests that the rejection of Sections 102 and 103 be withdrawn. To the extent that the rejection is maintained, Applicant requests that the Office clarify how the cited references include the non-delegable client and the error message as recited in the claims.

CONCLUSION

The application is considered in good and proper form for allowance, and the Examiner is respectfully requested to pass this application to issue. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,



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